

## **Chapter 116 Stakeholder Meeting March 26, 2003**

### Fee issues: non-payment, refunds, and schedules

Permit applications that are not accompanied by the correct fee will be held for processing until the fee is received. Any permit processing schedule required of TCEQ will not begin until the fee is received. NSR permit applicants who qualify for a permit by rule or a standard permit will be eligible to receive a fee refund of the difference between NSR fees and those of the PBR or standard permit.

### Requirement to certify all emission reductions prior to use as offsets

In order to be used as an offset, emission reductions would have to be certified under Chapter 101, Subchapter H. Offsets are used in the same manner as emission credits, and this concept would provide a consistent method of certification. Future offsets to be used internally to a facility would continue to be certified under Chapter 116. This would allow the continued use of equipment to be replaced until new equipment is ready.

### Deadline to submit emission reductions for offset consideration

Offsets are not permanent reductions, that is, offset emissions will reappear later as a result of new construction. In order to make meaningful and timely control plans, APD is considering a deadline of September 1, 2004 for the submission of emission reductions currently being held by companies for offsets but not currently certified as emission credits.

### Removal of administrative voidance of applications and results of actual voidance

APD would discontinue the practice of “administratively” voiding a permit application and would substitute codified procedures. Applicants who do not submit sufficient information on permit applications will be given at least two notices before the application is considered void. A new application would then be required which would undergo a new technical review and would be subject to public notice requirements. If the new application is received within 6 months of the voidance of the original, no new fees would be required.

**TCEQ should consider internal guidance to establish consistent periods of time for response to formal notices of deficiency before an application is voided.**

**Formal notices of deficiency are currently reviewed by TCEQ managers to insure that consistent and fair response times are included. Each application and project will have unique circumstances that do not fit with rigid guidance or rule established deadlines. TCEQ prefers to leave these judgements with the principal project engineers, their managers, and the industry contact.**

### Narrow conditions for extensions for commencement of construction

For newly issued permits construction of the project must commence within 18 months of permit issuance. A one time 18 -month extension is available to the permit holder on request. APD is proposing an additional extension of up to 18 months for the specific reason of involvement in litigation concerning issuance of the permit. The litigation must not have been originated by the permit holder. This second extension would also be available for unspecified reasons provided the permit holder has spent 15% of the estimated cost of the project and has completed another health effects evaluation. A permit receiving any extension is subject to additional BACT and offset review.

**Is TCEQ going to take this rule making as an opportunity to revise its methods for reviewing offsets or BACT?**

**No, current review methods will remain in effect. New BACT would be required only when there is a recognized change. Offset review depends primarily on the requirements of a particular nonattainment area and the offset ratio.**

**Has TCEQ established a time period for requesting an extension of time to begin construction?**

**TCEQ has not established a “no later than” date. A first extension can usually be granted at the permit holder’s request. For the proposed second extension, TCEQ would require sufficient time to confirm that the conditions of granting the extension have been satisfied.**

**What if the permit holder has not spent the required 15% when they request the second extension, but will have spent the sum by the time the extension is needed?**

**The rule is structured to allow the granting of the extension once the conditions are met. TCEQ would accept a request for the extension prior to the permit holder spending the required amount with a projection and follow-up documentation that the required amount would, and has been, spent.**

**What is the nature of the health effects review required for a second extension?**

**TCEQ has included this in the proposal to account for the possible addition of habitable structures in the vicinity of the delayed project. The standards the permit holder would have to meet would be the same as in the original review. They must demonstrate that there are no “off property” health risks. If there has been no change in the number or type of structures in the vicinity of the proposed facility, TCEQ believes that the effects review could consist of a confirmation of the conditions modeled and analyzed at the original review. If the area around the project has been developed further then these conditions might require additional modeling and analysis.**

**How will TCEQ administer the new requirement to submit renewal applications no later**

**than 6 months but no earlier than 18 months prior to extension?**

**TCEQ has included an effective date in the proposed rule so that permit holders who are currently within 6 months are not cut short on their renewal period. If the rule is adopted on schedule (July 9, 2003), permit holders will have a full six months to review their permit's status before the rule becomes effective on Feb. 1, 2004.**

**The attendees also requested that the fees listed in §116.313(a) be modified to reflect the current agency fee rates.**

TCEQ, Air Permits Division  
Chapter 116 Advisory Group  
March 26, 2003  
10:00 AM  
TCEQ Main Campus, Austin

Sign-In Sheet

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Attendee Name  
(Please Print Legibly)

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Carlos Davis

Russell Wozniak

Lee Moody

TCEQ, Air Permits Division  
Chapter 116 Advisory Group  
March 26, 2003  
10:00 AM  
TCEQ Main Campus, Austin

Sign-In Sheet

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Attendee Name  
(Please Print Legibly)

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JAIME GARZA

PATRICK MULLIN

ROBERT ST. JOHN

MONA JOHNSON

Barbara Pederson

Joe R. Cantu

Jim Moore

James (Jim) (Aunt)

ALEXANDRE BOURGEOIS

CECIL STERLING

Tara Capobianco

John STEIB

BEECHER CAMERON

ANNE INMAN

Katharine M. O'Connell